

### **Remarks**

Claims 1-22 are pending. No amendments are presented with this Response. Claims 1-22 remain pending.

Applicants request reconsideration and allowance of the above-mentioned application in view of the following remarks.

### **Claim Rejections - 35 U.S.C. § 102**

#### ***Claim Rejections by Lonergan et al. (U.S. Pat. No. 5,672,369)***

Claims 1-22 stand rejected under 35 U.S.C. 102(b) as being anticipated by the Lonergan et al. reference.

Applicants traverse this rejection.

As the Office Action acknowledges, the Lonergan et al. reference describes a pre-proofed dough (See paragraph 3 on page 2 of the Office Action. See also, the Lonergan et al. reference at, e.g., the Abstract). That is, if the dough product described in the Lonergan et al. reference is frozen, it is pre-proofed prior to freezing. These pre-proofed doughs described in the Lonergan et al. reference do not teach an unproofed frozen dough product as required in independent claims 1, 14, 18, and 22.

In addition, the pre-proofed doughs of the Lonergan et al. reference would not have suggested or motivated a skilled worker in the dough arts to arrive at the claimed subject matter of independent claims 1, 14, 18, and/or 22, especially the unproofed frozen dough product requirement.

Accordingly, Applicants request that the rejection of claims 1-22 under 35 U.S.C. 102(b) as being anticipated by the Lonergan et al. reference be withdrawn.

#### ***Claim Rejections by Juchem (U.S. Pat. No. 5,549,922)***

Claims 1-4, 9, and 14-21 stand rejected under 35 U.S.C. 102(b) as being anticipated by the Juchem reference.

Applicants traverse this rejection.

The Juchem reference describes a method of reducing the microorganism population (i.e., sterilization) of flour-containing semifinished products to avoid risk of contamination (See the Juchem reference at col. 2, lines 28-30, col. 3, lines 14-15, and col.

4, lines 7-13). Indeed, Juchem is interested in sterilizing these products so that they may be stored at certain conditions (See the Juchem reference at col. 2, lines 5-15).

According to the Office Action:

*Juchem teaches freezing a semi-finished bread dough ... and sealing with a 100% carbon dioxide atmosphere.*

Applicants believe the Office Action has misconstrued the Juchem reference. The Juchem reference describes a sterilization method that involves forming a suspension that includes flour and liquid (See the Juchem reference at col. 2, lines 30-32). The liquid suspension is then subjected to carbon dioxide gas for a limited time period (See the Juchem reference at col. 2, lines 33-36). According to the Juchem reference, the method is suitable for making a “flour-containing semifinished edible substance which is ready for storage in a freezer as well as in a refrigerator” (See the Juchem reference at col. 3, lines 1-5, underlining added). Thus, the Juchem method requires that the liquid suspension be treated with carbon dioxide for a specific time period, before the semifinished product can be stored in a refrigerator or freezer (e.g., storing by packaging and then refrigerating or freezing). Contrary to the position of the Office Action, there is no unambiguous indication in the Juchem reference of freezing an unproofed bread dough that is sealed in a carbon dioxide atmosphere.

Independent claim 1 relates to an unproofed frozen dough product that is contained in an atmosphere enriched in a carbon dioxide concentration.

As discussed above, the Juchem reference does not describe an unproofed frozen dough product that is contained in a carbon dioxide atmosphere. Therefore, the Juchem reference does not anticipate claim 1.

In addition, the Juchem reference would not have suggested or motivated a skilled worker in the dough arts to arrive at the claimed subject matter of claim 1, especially in the element of containing an unproofed frozen dough in a particular carbon dioxide atmosphere. According to Juchem, contacting the liquid suspension with carbon dioxide to sterilize the liquid suspension during processing and prior to storage is perfectly acceptable. Thus, without hindsight, a skilled worker in the dough arts would have no motivation to modify the Juchem reference to contain a frozen dough in a carbon dioxide atmosphere.

Claim 14 relates to a method of making the frozen dough product of claim 1 by packaging an unproofed dough product in a carbon dioxide atmosphere and then freezing said packaged dough product.

The Juchem reference does not describe a method of making a frozen dough product that includes the process steps of claim 14. Therefore, the Juchem reference does not anticipate claim 14.

In addition, the Juchem reference would not have suggested or motivated a skilled worker in the dough arts to arrive at the claimed subject matter of claim 14.

Claim 18 relates to a method of making the frozen dough product of claim 1 by freezing an unproofed dough product and then prior to proofing, flushing the unproofed frozen dough product with a certain carbon dioxide atmosphere.

The Juchem reference does not describe a method of making a frozen dough product that includes the process steps of claim 18. Therefore, the Juchem reference does not anticipate claim 18. Moreover, the Office Action did not even address requirements in claim 18 as compared to the Juchem reference, such as the “prior to proofing” step of the claim.

In addition, the Juchem reference would not have suggested or motivated a skilled worker in the dough arts to arrive at the claimed subject matter of claim 18.

Accordingly, Applicants request that the rejection of claims 1-4, 9, and 14-21 under 35 U.S.C. 102(b) as being anticipated by the Juchem reference be withdrawn.

*Claim Rejections by Yamamoto et al. (EP 0404957)(referred to hereinafter as the Yamamoto et al. ‘957 reference)*

Claims 1-6, 9, 18-21 stand rejected under 35 U.S.C. 102(b) as being anticipated by the Yamamoto et al. ‘957 reference.

Applicants traverse this rejection.

The Office Action merely notes that:

*Yamamoto et al. ‘957 teach a frozen yeast fermented bread product with an enhanced proofing utilizing up to 100% carbon dioxide atmosphere...,*

and then concludes that independent claims 1 and 18 are anticipated.

Yamamoto et al. ‘957 describe freezing certain dough compositions after they have been fermented (i.e., “proofed”) (See the Yamamoto et al. ‘957 reference at page 2, 3, and especially at Example 2). Yamamoto et al. ‘957 use the unmodified term

“fermented” which ordinarily means a proofed dough. Thus, similar to the Lonergan et al. reference discussed above, the fermented dough described in the Yamamoto et al. ‘957 reference is a pre-proofed dough prior to freezing.

These fermented (i.e., pre-proofed) doughs described in the Yamamoto et al. ‘957 reference do not teach an unproofed frozen dough product as required in independent claims 1 and 18.

In addition, the pre-proofed doughs of the Yamamoto et al. ‘957 reference would not have suggested or motivated a skilled worker in the dough arts to arrive at the claimed subject matter of independent claims 1 and 18, especially the unproofed frozen dough product requirement.

Accordingly, Applicants request that the rejection of claims 1-6, 9, 18-21 under 35 U.S.C. 102(b) as being anticipated by the Yamamoto et al. ‘957 reference be withdrawn.

*Claim Rejections by Yamamoto (JP 02027936, English Abstract)(referred to hereinafter as the Yamamoto ‘936 reference)*

Claims 1, 5, 6, 9, 14, and 17 stand rejected under 35 U.S.C. 102(b) as being anticipated by the Yamamoto ‘936 reference.

Applicants traverse this rejection.

The Office Action notes that:

*Yamamoto ‘936 fermenting bread dough in a carbon dioxide atmosphere and freezing the dough in the carbon dioxide atmosphere, as well as including carbon dioxide in the package.....*

and then concludes that independent claims 1 and 14 are anticipated.

Yamamoto ‘936 describes frozen bread dough that has been conventionally fermented prior to freezing (See the Yamamoto ‘936 reference at the “Constitution”).

Also, similar to Yamamoto et al. ‘957, Yamamoto ‘936 uses the unmodified term “fermented,” which ordinarily means a proofed dough.

These fermented (i.e., pre-proofed) doughs described in the Yamamoto ‘936 reference do not teach an unproofed frozen dough product as required in independent claims 1 and 14.

In addition, the pre-proofed doughs of the Yamamoto ‘936 reference would not have suggested or motivated a skilled worker in the dough arts to arrive at the claimed

subject matter of independent claims 1 and 14, especially the unproofed frozen dough product requirement.

Accordingly, Applicants request that the rejection of claims 1, 5, 6, 9, 14, and 17 under 35 U.S.C. 102(b) as being anticipated by the Yamamoto '936 reference be withdrawn.

The Examiner is invited to contact Applicants' undersigned Attorney, at the Examiner's convenience, should the Examiner have any questions regarding this communication or the present patent application.

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